

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 1:12-cr-031
also 1:14-cv-279

- vs -

Chief Judge Susan J. Dlott
Magistrate Judge Michael R. Merz

ORLANDO GAMBLE,

Defendant.

:

**ORDER ADOPTING REPORT AND RECOMMENDATIONS
ON § 2255 MOTION**

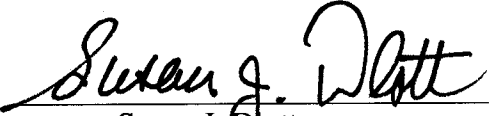
This § 2255 case is before the Court on the Report and Recommendations Doc. No.38) of United States Magistrate Judge Michael R. Merz to whom this case was referred pursuant to the General Order of Reference for this District.

Defendant filed Objections, but they were not mailed until June 20, 2014, seven days after the deadline for doing so (Objections, Doc. No. 39, PageID 116).

The Court has reviewed the findings and conclusions of the Magistrate Judge and has considered de novo all of the filings in this case with particular attention to the issues as to which Petitioner has lodged objections, even though the Objections were filed late. Having done so, the Court determines that the Magistrate Judge's recommendations should be adopted. Defendant's claim that something outside the record must have been considered to determine that "unlawful restraint" involves sexual misconduct is incorrect. The Ohio statute prohibiting unlawful restraint requires proof of sexual motivation for conviction.

Accordingly, it is hereby ORDERED that the § 2255 Motion herein be dismissed with prejudice and that Petitioner be denied a certificate of appealability. The Court hereby certifies to the Sixth Circuit Court of Appeals that any appeal from this Order would be objectively frivolous.

June 24, 2014.


Susan J. Dlott
Chief United States District Judge